

WATER RIGHTS COMMISSION ACT

CHAPTER 296

S. B. No. 145

An Act concerning water resources and water rights and water resources and water rights administration; further amending Article 7477 of the Revised Civil Statutes of Texas, 1925, as amended; changing the name of the Texas Water Commission to the Texas Water Rights Commission; defining certain terms; providing for the appointment and terms of office of the members of the Texas Water Rights Commission; providing for rules and regulations; providing for biennial reports; providing for the appointment and salary of an Executive Director; providing for the transfer of funds, records, and equipment; providing for the administration of permits to appropriate public waters; declaring legislative intent with regard to cancellation of unused permits and certified filings; providing that certain rights, powers, and duties of the Board of Water Engineers and the Texas Water Commission are transferred to the Texas Water Rights Commission; providing that the Attorney General shall be the legal advisor of the Commission and other legal counsel may be employed subject to the consent of the Attorney General; providing for cooperation with the United States and other state agencies; providing for appeals from rulings of the Commission; providing for copies of Commission records and rulings; amending Acts 1925, 39th Legislature, page 25, Section 3c, as amended, relating to the designation of underground water reservoirs and subdivisions thereof; providing a savings clause; providing for severability; repealing certain laws; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 7477, Revised Civil Statutes of Texas, 1925, as amended, is further amended⁵⁸ to hereafter read as follows:

"Article 7477.

"Short title

"Section 1. This Act may be cited as the 'Texas Water Rights Commission Act.'

"Definitions

"Section 2. As used in this Act:

"(a) 'Commission' means the Texas Water Rights Commission.

"(b) 'Board' means the Texas Water Development Board.

"The Texas water rights commission

"Section 3. The name of the Texas Water Commission, created and constituted by Acts 1962, 57th Legislature, 3rd Called Session, Chapter 4, is hereby changed to the Texas Water Rights Commission, and the members constituting the Texas Water Commission shall continue in office for the respective terms for which they were appointed, and until their successors are appointed and have qualified. Said Commission shall be composed of three (3) members with some knowledge of water law appointed by the Governor by and with the advice and consent of the Senate, and each shall hold office for a term of six (6) years, and until his successor is appointed and has qualified. Provided, that the person appointed for the term beginning in August, 1963, shall serve for a period ending February 1, 1969; the person appointed to the term beginning in August, 1965, shall serve for a period ending February 1, 1971, and the

58. Vernon's Ann.Civ.St. art. 7477.

person appointed to the term beginning August, 1967, shall serve for a period ending February 1, 1973. Each member of the Commission is an officer of the state as defined by the Constitution and shall qualify by taking the official oath of office as prescribed by law, and by executing an official bond payable to the State of Texas in the sum of Ten Thousand Dollars (\$10,000) in accordance with the provisions of the State Employee Bonding Act. Members of the Commission shall serve on a full-time basis and each member shall be from a different section of the state.

"The Governor shall designate the Chairman of the Commission who shall serve as Chairman until a new Chairman is designated.

"The Chairman shall preside at all meetings of the Commission and shall cause to be issued notices of public hearings authorized by the Commission or held under its authority. The Chairman may designate another member of the Commission to act temporarily for him in his absence.

"The Commission shall hold regular meetings on dates specified by order of the Commission entered upon its minutes. Special meetings after reasonable notice by the Chairman or Acting Chairman to the members of the Commission may be held at such times and places within the state as said Commission may deem necessary and proper in the performance of its duties. A majority of the Commission shall constitute a quorum.

"Organization, rules and regulations

"Section 4. The Commission is authorized to organize and reorganize its administrative divisions and services for the most efficient dispatch of its powers and duties, and issue rules and regulations for the conduct of its affairs including the mode and manner of all procedures and hearings held under its authority.

"Reports

"Section 5. The Commission shall make biennial reports in writing to the Governor in which shall be included data on the activities of the Commission and such suggestions as to the amendment of existing laws and the enactment of new laws as the information and experience of the Commission may suggest.

"Executive director

"Section 6. The Commission shall employ an Executive Director to serve at the pleasure of the Commission. The Executive Director shall, under the direction of the Commission, be the Chief Administrative Officer of the Commission, and shall appoint such employees and assistants and other personnel, including hydrologists and other specialists in the field of water rights administration, on a full or part-time basis, as the Commission feels necessary to assist it in carrying out the powers, duties, and functions required of it by law. The Executive Director shall receive necessary travel expenses in the same manner as a member of the Commission, and shall receive from any funds appropriated to the Texas Water Rights Commission an annual salary for the biennium beginning September 1, 1965, of \$15,000 and thereafter shall receive such annual salary as may be set by the Legislature in the General Appropriations Act.

"Records, equipment

"Section 7. All of the files, records, equipment and property formerly the property of the Texas Water Commission needed to perform the duties of the Texas Water Rights Commission shall be transferred to the Commission. Details of property transfer and adjustment of property records

shall be agreed upon by the Commission and the Board and the Commission and the Board are directed to consult with the State Auditor and the Comptroller of Public Accounts in order that the transfers of property and records may be made in an orderly manner. Funds appropriated to either agency in the biennium beginning September 1, 1965, may be transferred to the other agency by agreement of the Board and the Commission, and upon approval by the Governor and the Legislative Budget Board.

"Permits, cancellation

"Section 8. (a) The Commission shall have the duty of receiving, administering, and acting upon all applications for permits, or amendments thereto made by any person, political subdivision or by the Board to appropriate public waters for beneficial use or storage or to construct works for the impoundment, storage, diversion or transportation of public waters. The Commission may issue permits for storage solely for the purpose of optimum development of projects, and such permits for storage may be converted into permits for beneficial use by further application therefor to the Commission.

"(b) The Commission shall have the duty of administering proceedings for the cancellation and forfeiture, in whole or in part, of permits and certified filings for the appropriation of public waters as provided in Articles 7474, 7519, 7544 of the Revised Civil Statutes of Texas, and Acts 1957, 55th Legislature, Chapter 39 (compiled as Articles 7519a and 7519b, Revised Civil Statutes).

"(c) It is the intent and desire of the Legislature that the Commission shall undertake an orderly, active and continuing evaluation of outstanding permits and certified filings and initiate and carry forward measures to cancel in whole or in part those certified filings and permits that are subject to cancellation in whole or in part.

"Duties of commission

"Section 9. All of the rights, powers, and duties delegated by law to the Board of Water Engineers and the Texas Water Commission not expressly transferred or redelegated to another agency by Act of the Legislature shall hereafter be exercised by the Texas Water Rights Commission.

"Attorney general

"Section 10. The Attorney General shall be the legal advisor of the Commission and shall represent the Commission in litigation to which they may be a party; provided, that in addition, the Chairman of the Commission, subject to the written consent of the Attorney General of this state, may employ other legal counsel regularly, or may engage their services temporarily.

"Agency cooperation

"Section 11. The Commission, in performing the duties prescribed by this Chapter, may cooperate with agencies of the United States, with other agencies of this state or of any other state, with political subdivisions and municipal corporations of the state and with persons and corporations.

"Appeals

"Section 12. (a) Any person affected by the ruling, order, decision, or other act of the Commission, may, within thirty (30) days after the date on which such act is performed, or, in case of a ruling, order, or de-

cision, within thirty (30) days after the effective date thereof, file a petition in an action to review, set aside, modify, or suspend such ruling, order, decision, or other act. Or any party affected by the failure of the Commission to act in a reasonable time upon an application to appropriate water, or to perform with reasonable promptness any other duty imposed by this Chapter, may file a petition in an action to compel the Commission to show cause why it should not be directed by the court to take immediate action. The venue in any or all such actions is hereby fixed exclusively in the District Court of Travis County, Texas.

“(b) Any party aggrieved by any judgment or order of a district court in any suit or judicial proceeding brought under the provisions of this Chapter shall have the right to a review on appeal to the Court of Civil Appeals, and by appeal or writ of error to the Supreme Court, as in other civil cases in which the district court has original jurisdiction, and subject to the statutes and rules of practice and procedure in civil cases.

“Records

“Section 13. Upon the application of any person and upon payment of the fees prescribed therefor in the Rules and Regulations of the Commission, the Commission shall furnish certified copies of any proceedings or any other official act of record, or of any paper, map, or document filed in the office of the Commission, in connection with the appropriation of water, determination of water rights, or administration of water rights. Such certified copies, when signed by the Chairman, the Executive Director, or such person as the Chairman may designate, and under the seal of the Commission shall be admissible as evidence in any court or administrative proceeding.”

Sec. 2. Underground Water Reservoirs.

Acts 1925, 39th Legislature, Chapter 25, Section 3c, as amended, (compiled as Article 7880—3c, Revised Civil Statutes of Texas) is further amended⁵⁹ by the addition thereto of another Section lettered Section (I) to read as follows:

“Section (I) The authority heretofore vested in the State Board of Water Engineers and its successors to designate ‘underground water reservoirs’ or ‘subdivision of an underground reservoir’ shall hereafter be exercised by the Texas Water Rights Commission acting upon evidence and testimony from the Texas Water Development Board and other evidence adduced at a hearing held for the purpose of making such designation. The said Board shall upon the request of any person interested in such application for designation or at the request of the Texas Water Rights Commission prepare evidence and testimony available to it relating to the existence, area and characteristics of any such reservoir or subdivision thereof. All other duties with regard to Underground Water Districts imposed on the State Board of Water Engineers by this Act shall be performed by the Texas Water Rights Commission.”

Sec. 3. Savings Clause. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. No action or proceeding commenced prior to the effective date of this Act shall be affected by its enactment.

Sec. 4. Severability Clause.

If an provision of this Act or the application thereof to any person or circumstances is held to be unconstitutional, the remainder of

59. Vernon's Ann.Civ.St. art. 7880—3c, § I.

the Act or the application of such provisions to other persons or circumstances shall not be affected thereby.

Sec. 5. Repealer Clause.

All other laws or parts of laws in conflict herewith are repealed to the extent of such conflict only.

Sec. 6. Effective Date.

This Act shall be effective September 1, 1965.

Sec. 7. Emergency Clause.

The fact that the administration of water rights and water resources is a critical task and there is a great need for laws to perform these vital public duties in the most efficient manner creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended; and this Act shall take effect and be in force from and after September 1, 1965, and it is so enacted.

Passed the Senate on March 15, 1965, by a viva voce vote; Senate refused to concur in House amendments and requested appointment of Conference Committee on May 17; House granted request of the Senate on May 17; Senate adopted Conference Report on May 27, 1965, by a viva voce vote; passed the House on May 13, 1965, with amendments, by a non-record vote; House granted request of the Senate for appointment of Conference Committee on May 17, 1965; House adopted Conference Report on May 26, 1965, by a non-record vote.

Approved June 1, 1965.

Effective Sept. 1, 1965.

WATER RESOURCES ADMINISTRATION AND DEVELOPMENT

CHAPTER 297

S. B. No. 146

An Act relating to the reorganization of the state agencies that administer laws relating to water resources administration and development and to the powers and functions of those agencies; amending Sections 2, 3, 4, 7, 12, 14, 18, 21, and 21-a, of, and adding new Sections to, Chapter 425, Acts of the 55th Legislature, Regular Session, 1957, as amended; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Section 2, Chapter 425, Acts of the 55th Legislature, Regular Session, 1957 (Section 2, Article 8280—9, Vernon's Texas Civil Statutes), is amended⁶⁰ by revising Subsection (c) of the Section and by adding a new subsection to it, both to read as follows:

"(c) 'Development Fund Manager' means the fiscal administrator of the Texas Water Development Fund.

"(i) 'Executive Director' means the Executive Director of the Texas Water Development Board."

60. Vernon's Ann.Civ.St. art. 8280—9, § 2, subsec. (c) (i).